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REMARKS

The Applicant thanks the Examiner for indicating that claims 9-12 are allowed while claims 2 and 8 are objected to but would be allowable.

The Applicant would like to thank Examiner Graham for the analysis contained in the Examination Report.

Rejection under 35 U.S.C. § 112

In the amended claims, proper antecedent base is provided in claim 6 for the "first vertical support" and the "second vertical support" by changing the claim dependency of this claim to depend from claim 5 instead of claim 1.

Rejection Under 35 U.S.C. § 103

Claims 1, 2, 4 and 7 presently stand rejected under 35 USC 103 as being unpatentable over August in view of Valentine while claim 5 presently stands rejected under 35 USC 103 as being unpatentable over Thumann in view of Levy. The Applicant acknowledges and respectfully traverses both of the raised obviousness rejections in view of the following remarks.

In the first rejection, the Examiner is advancing the proposition that it would be obvious to one skilled in the art to take an apparatus which is used to promote patient relaxation from a hospital (Figure 4 of August), equip it with a suitable mounting (such as taught by Valentine) and use it as a target for projectiles. According to the relaxing scene proposed by August, being that of a golf course, it is the Examiner's position that the projectile of choice would be a golf ball driven with force by a golf club.

In the second rejection, the Examiner is advancing the proposition that it would be obvious to one skilled in the art to take a retractable door screen (Thumann), adorn it with a selected graphic (Levy) and use it as a target for projectiles.

The Applicant respectfully submits that, without the benefit of hindsight, both of the analyses are tainted as there is not even a remote possibility of either of these substitutions occurring. However, in order to fully respond to the Examiner's analysis, the Applicant examined the result of making the proposed substitution and entered suitable claim amendments that are intended at addressing and overcoming the Examiner's concerns.

Size of target area

The August patient relaxation apparatus is of a size of a window blind. The Thumann retractable door screen is of a size sufficient to cover an entry door. It is respectfully submitted that a reasonable individual would not position himself in front of his house and use a golf club to drive a golf ball toward either of these apparatus positioned in front of the house. The target areas provided are far too small. There is not just a possibility but a probability, that the target will frequently be missed and the consequences of missing the target could be quite severe.

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It is respectfully submitted that adjusting the size of the August/Valentine combination or the Thumann/Levy combination to suit the intended purpose adds another element not present in the applied combination. The Applicant has accordingly amended the wording of Claim 1 to specify the size of target required, namely, "the flexible sheet material being of a size sufficient to cover an opening for an overhead garage door."

Strength of substrate

The August patient relaxation apparatus is made from "shade-like material" (see column 12 lines 20-21). The Thumann retractable door screen is made from "a flexible sheet comprising a screen 28" (column 3 lines 8-9). It is respectfully submitted that with these types of materials, the target substrate will rapidly deteriorate resulting in severe damage being caused by golf balls to the house behind. It is respectfully submitted that adjusting the characteristics of the target substrate of the August/Valentine combination or the Thumann/Levy combination to suit the intended purpose adds another element not present in the applied combination. The Applicant has accordingly amended the wording of Claim 1 to specify the characteristics of the target substrate, namely, the flexible sheet material being "of a material able to withstand repeated impacts from projectiles."

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the August, Valentine, Thumann and/or Levy references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

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In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via facsimile to the United States Patent and Trademark Office on: June 9, 2004



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